

POLICY AND PROCEDURE
UNION PUBLIC UTILITY DISTRICT

DATE REVISED: 02/28/2024	MANUAL	POLICY NO. 2002, 2005
APPROVED BY: Board of Directors	POLICY TITLE Discipline and Termination	Page 1-4

PURPOSE OF POLICY

Union Public Utility District requires that employees adhere to acceptable levels of professional behavior in the workplace and maintain a satisfactory level of job performance, in addition to adhering to all Agency policies. Non-compliance with these standards or any Agency policies or regulations may lead to appropriate disciplinary measures, including the possibility of employment termination.

2002.1 At-Will Employment. An employee is free to terminate employment with the District at any time, with or without a reason and the District has the right to terminate an employee’s services at any time, with or without reason. Although the District may choose to terminate employment for cause, cause is not required. This is called “at-will” employment.

2005 Disciplinary Process

2005.1 The following is the normal sequence of disciplinary procedure:

2005.2 ~~Verbal~~ Oral Warning

2005.3 Written Warning

2005.4 Disciplinary Probation

2005.5 Suspension

2005.6 Demotion

2005.57 Termination

2005.68 ~~It should be noted it is not required the disciplinary process include all of the above four steps. Disciplinary action may begin at any time with or without pay at any step in the process depending upon the severity of the offense committed and as determined by the Board of Directors.~~ The level of discipline imposed depends on numerous factors, including but not limited to the nature of the offense and past disciplinary history. The District may, in its discretion, impose whatever discipline it considers appropriate. There is no requirement that it impose any particular disciplinary step or steps before proceeding to termination; the Agency may determine that termination is appropriate without taking any less severe disciplinary step first.

2005.79 While it is important to make a complete listing of the types of conduct, which may result in disciplinary action or termination, the following is presented as a guide of unacceptable behavior or conduct. It is important to note any or all of the following may be interpreted as cause for discipline.

2005.79.1 Sexual harassment, harassment or discrimination of any kind

2005.79.2 Violations of safety, security or District policies

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2005.79.3 Interfering with or disrupting the performance of the other employees on the job

2005.79.4 Unprofessional or immoral conduct

2005.79.5 Excessive tardiness or unexcused absenteeism

2005.79.6 During work hours, leaving the normal work area of the District without properly notifying the Manager

2005.79.7 Failure to report any accident resulting in injury or property damage

2005.79.8 Willfully falsifying information on an application for employment

2005.79.9 Theft, attempted theft, or unauthorized use of District equipment, property or vehicles

2005.79.10 Reporting to work under the influence of alcohol or illegal drugs, or consuming it on District premises

2005.79.11 Conviction of any crime

2005.79.12 Intentional falsification of information on pertinent records of the District

2005.79.13 Insubordination ~~for example, not following a lawful instruction issued by the Manager~~

2005.79.14 Inexcusable neglect of duty. Continued incompetence and inefficiency resulting in harm to the General Public, the District or other employees.

2005.9.15 Failure to comply with any District policies or rules.

2005.10 Right to Respond to Discipline.

2005.10.1 Response to Written Reprimand. Any regular employee who receives a written reprimand is entitled to respond to that reprimand by drafting a written response. The employee's written response must be submitted, if at all, within fourteen (14) calendar days following the employee's receipt of the reprimand. Any such written response will be attached to the written reprimand and placed in the employee's personnel file. This right to respond does not apply to employees on introductory probation. Such employees have no right to make a written response to a written reprimand.

2005.10.2 Response to Proposed Severe Discipline (Skelly Response). Before the District makes a final determination to impose more Severe Discipline (defined as: unpaid suspension of more than five days, demotion, or termination), it will provide the regular employee with the following:

1. Written notice of the proposed disciplinary action and the proposed effective date for such action;
2. Reasons for the proposed disciplinary action;
3. A copy of the materials upon which the proposed disciplinary action is based; and
4. An opportunity to respond to the proposed discipline, in writing, to the General Manager. The written response to the General Manager must be submitted, if at all, within seven (7) calendar days of the employee's receipt of the proposed discipline. If the employee does not timely respond, then the proposed disciplinary action shall become final as of the effective date stated in the notice of intended disciplinary action. If the employee chooses to respond timely, the District will make a final decision regarding the proposed disciplinary action after considering the employee's response and will provide notice of that final decision to the employee. Prior to the effective date of any proposed

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Severe Disciplinary action, the General Manager may place the affected employee on paid administrative time if the General Manager determines that to be necessary and appropriate.

This Skelly Response section does not apply to introductory probationary employees. Such employees have no Skelly Response rights.

2005.11 Appeal of Severe Discipline.

2005.11.1 If the Agency imposes Severe Discipline on a regular employee, the employee may appeal the final disciplinary decision to the Board of Directors. The employee may choose to appeal either by written brief or by oral hearing, but not both. Introductory employees have no right to appeal any disciplinary decision to the Board.

2005.11.1.2 Written Brief. Within fourteen (14) calendar days following the employee's receipt of the Agency's notice of a final Severe Disciplinary decision (if delivered personally), or within twenty-one (21) calendar days after issuance of the Agency's notice of a final decision (if delivered by mail), the employee may deliver to the Agency's Board of Directors a written appeal of the final Severe Disciplinary decision. The appeal shall consist of a concise written statement setting forth all reasons why the employee believes the decision imposed by the Agency should be overturned or modified. Any such written appeal should include any documents the employee believes are relevant and should be considered by the Board. Delivery of the written appeal to the Board will be deemed complete when delivered to the General Manager in person or mailed to Union Public Utility District's Main Office. If a regular employee delivers a timely written appeal, the Agency will provide to the Board a written Agency response to the appeal brief within fourteen (14) calendar days after receipt of the employee's appeal. The Agency will also provide a copy of its written response to the employee who is making the appeal. At its sole discretion, the Board may appoint an individual (whether or not a Board member) to review the written briefs and render an advisory decision to the Board. Within sixty (60) days after receipt of both a timely written appeal and Agency written response, the Board will issue a written decision regarding the disciplinary action. The Board decision shall be delivered to all parties and shall be final and binding.

2005.11.1.3 Oral Hearing. To request an oral hearing on appeal, the regular employee must, within seven (7) calendar days following the employee's receipt of the Agency's notice of a final Severe Disciplinary decision (if delivered personally), or within fourteen (14) calendar days after issuance of the Agency's notice of a final Severe Disciplinary decision (if delivered by mail), deliver to the Agency's Board of Directors a written request to have an oral appeal hearing of the final disciplinary decision. In such case, the Agency's Board of Directors will make reasonable efforts to set the matter for hearing within sixty (60) days after receipt of a timely served written request for an appeal hearing. The Board may determine whether it wishes to hear the matter collectively, or alternatively to designate a single Board member or other outside hearing officer to hear the matter. At the hearing, the employee shall be entitled to be present at all sessions of the hearing when evidence is being received. Each side shall have the right to be represented by counsel, to present its case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for full disclosure of all relevant facts. Testimony shall be under oath which shall be

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administered by the authorized person. The hearing need not be conducted according to the technical legal rules relating to evidence and witnesses. The Board or Board designee may, upon a request by any party, or on its own initiative, request files and documents in the custody of the Agency that may be relevant to the matter before it. No evidence other than that presented at the hearing, or as may be requested by the Board or designee, shall be considered by the Board in rendering its decision. Any procedural matter, including but not limited to objections to the evidence, shall be ruled on by the Board, or the Board designee. The hearing, if any, shall be recorded. If either party requests that the hearing be transcribed by a court reporter, the party making the request shall bear the cost involved. Within sixty (60) days following the oral hearing, the Board will issue a written decision regarding the disciplinary action. The Board decision shall be delivered to all parties and shall be final and binding. At its sole discretion, the Board may appoint an individual (whether or not a Board member) to act as hearing officer. In such event, the hearing officer will conduct the hearing in accordance with the above, and will render an advisory decision to the Board.